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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

July 16, 1993

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Washington, D.C. 20554

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JUL 16 1993

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of:

TOCCOA FALLS COLLEGE

et al.,

Applications for Construction  
Permit for a Non-commercial  
Educational FM Station,  
Channel 203C2,  
Belton and Williamston,  
South Carolina

NM Docket No. 93-128

File Nos. EPED-920113ML

and

EPED-920811MA

To: Administrative Law Judge  
Richard L. Sippel

REPLY TO OPPOSITION

Respectfully submitted,

MCHAIR & SANFORD, P.A.

By: \_\_\_\_\_

John W. Hunter  
Attorneys for Toccoa Falls College  
1155 15th Street, N.W., Suite 400  
Washington, D.C. 20005  
Telephone: (202) 659-3900

July 16, 1993

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### REPLY TO OPPOSITION

Toccoa Falls College ("TFC"), by its attorneys, pursuant to Sections 1.294 (c)(1) and 1.229 (d) of the Commission's Rules, hereby submits this "Reply to Opposition." On June 14, 1993, TFC filed a "Motion to Enlarge the Issues" against Nazareth Communications, Inc. ("NCI"). That motion seeks the specification of misrepresentation and lack of candor issues. On July 6, 1993, NCI filed an opposition thereto. In reply to the opposition, TFC offers the following comments.

The Hearing Designation Order ("HDO"), DA 93-474, released May 6, 1993, at para. 3, challenges the status of NCI as a qualified educational organization under Section 73.503 (a). The HDO, at para. 4, observes that NCI, in order to demonstrate its educational qualifications, made the following representations in its application, at Section II, Item 2, Exhibit II-1, as amended:

[NCI] plans to work closely with Presbyterian College in Clinton, South Carolina, the proposed Greenville Christian School of the Arts (GCSA), as well as other local educational institutions, in producing and airing programs which have cultural and educational content. As set forth below in greater detail, certain programs to be aired on the proposed station will offer the opportunity for students at the Presbyterian College and the new Greenville Christian School for the Arts to obtain academic credit, and will serve to complement on-campus and in-school instructional courses and educational activities. As part of their class work Presbyterian College GCSA students will work at [NCI's] facility in a number of technical and programming capacities.

NCI made the following representations in amended Exhibit II-2, filed with the Commission on December 30, 1992:

... present plans envision the involvement of students from Presbyterian College in the production of instructional programming consisting of specific College course offerings such as: computer literacy; basic and advanced Bible and theology courses; and, amateur photography.

[NCI] anticipates producing and broadcasting the following programming in conjunction with Presbyterian College:

1. "Presbyterian College Report" --a weekly feature produced by college students and hosted by the faculty and/or staff...
2. "Presbyterian College Forum" --a weekly live one hour program which will be produced by college interns...
3. "From the President's Desk" --a weekly program featuring the President of Presbyterian College, Dr. Orr.
4. "Campus Concerts" --musical concerts held on campus or sponsored by campus organizations would be broadcast by the station.

NCI made the following representations in amended Exhibit IV-4, filed with  
the Commission on December 30, 1992:

Bridges acknowledges that Brown told him not to interpret Dr. Orr's non-committal as disinterest in further pursuing this matter.

Bridges sent Brown a letter of October 27, 1992, containing a program proposal, which was subsequently used in NCI's December 30, 1992, amendment. He acknowledges that NCI never received a confirmation from Dr. Orr or from the college agreeing to this proposal. Bridges alludes to a telephone conversation with Brown, who wanted to see additional written proposals.

Bridges states that he had two other telephone conversations with Brown on February 15 and March 1, 1993. Brown indicated that he had not spoken with Dr. Orr about NCI's program proposals, but that he believed that the college had an interest in pursuing the proposals.

Bridges admits that at no time did he show Brown or any one associated with the college a copy of the NCI application or any amendments. Bridges further admits that he recently asked Brown to verify their past conversations and dealings and that he has declined to do so.

Accordingly, Bridges has conceded that NCI never had any agreement or understanding with Presbyterian College as to working together on producing programs for the Williamston, South Carolina, station. All that Bridges had were some vague and general statements from Brown that he believed the college had had interest in pursuing the matter, but that he could not speak for the college. Based on this sliver of hope, NCI made grandiose and detailed representations to the Commission as to specific program proposals that it and the college would work "closely" together on.

Attached herewith is a statement of Dr. Kenneth B. Orr, the President of Presbyterian College, dated July 14, 1993. Therein, Dr. Orr states that he has reviewed the declaration of Bridges and again disavows any past, present, or future agreement or understanding of the college to be involved with NCI or its proposed station.

Based on the foregoing statements of Bridges, he and NCI had no "good faith" belief that Presbyterian College had agreed to work with NCI in producing

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

WHEREFORE, in view of the foregoing, TFC urges that the Presiding Judge specify misrepresentation and lack of candor issues against NCI.

Respectfully submitted,

McNAIR & SANFORD, P.A.

By: 

John W. Hunter  
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July 16, 1993

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OFFICE OF THE PRESIDENT

# Presbyterian College

CLINTON, SOUTH CAROLINA 29304 • (803) 233-2000

**July 14, 1993**

**To Whom It May Concern**

**Re: Application of Nazareth Communications, Inc. for a New Non-commercial FM Station on Channel 20.3, Williamston, South Carolina**

I have reviewed the declaration of B. H. Bridges dated June 28, 1993 in support of the application filed by Nazareth Communications, Inc. with the Federal Communications Commission concerning their desire to establish a non-commercial educational FM broadcast station in Williamston, South Carolina.

Presbyterian College will not participate with Nazareth Communications in its plans for a radio station. Any representation that we are or will is false. We only received a copy of the application from Mr. Bridges on June 28, 1993. It arrived when I was away from Presbyterian College on vacation. I returned to the campus on July 12.

As president and chief executive officer of Presbyterian College, I have never given Mr. Bridges my consent for him to include Presbyterian College in this application.

I am asking Mr. Bridges and the FCC to delete any references to Presbyterian College in his application for a non-commercial educational FM channel. If he does not do so, I will pursue legal action to insure that we are not falsely represented by Nazareth Communications as a co-participant in this proposed station.

**Sincerely,**

Ken B. Orr

**Kenneth B. Orr**  
President

KBO:bs

c: Mr. Bob Biermann  
Ms. Donna R. Search  
Mr. B. H. Bridges  
Dr. Randy Kowalski

Notarized: Charles H. Stanton  
My commission expires May 15, 2002  
July 14, 1993, Laurens County, South Carolina

106-886-8690	Bob Biermann	Kenneth B. Orr	103 833-8481
	Truman College	Presbyterian College	103 833-8220



**CERTIFICATE OF SERVICE**

I, John W. Hunter, an attorney in the law firm of McNair & Sanford, P.A., do hereby certify that on this 16th day of July, 1993, I have caused to be hand delivered or mailed, U.S. mail, postage prepaid, a copy of the foregoing "Reply to Opposition" to the following:

The Honorable Richard L. Sippel\*  
Administrative Law Judge  
Federal Communications Commission  
Room 214  
2000 L Street, N.W.  
Washington, D.C. 20554

Y. Paulette Laden, Esquire  
Hearing Branch  
Federal Communications Commission  
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John W. Hunter

\*Hand Delivery